



***Town of Tyngsborough
Conservation Commission***

25 Bryants Lane
Tyngsborough, Massachusetts 01879-1003
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Minutes
May 28, 2013
APPROVED

Present:

BM: Brian Martin **LG:** Lucy Gertz **ES:** Ed Smith **PM:** Pat Mical **JK:** Jeff Kablik
LB: Linda Bown **MM:** Matt Marro

Absent:

JE: Jerry Earl

Attachments:

1. Agenda
2. 31 Bowers Ave. RDA Application – 5/3/13
3. 81 Westford Rd. Layout Modification Plan = 5/2/13
4. 72 Tyng Rd.(Innovation Academy) Notice of Intent
5. 79 Parham Rd. Plot Plan
6. 31 Elm St. OOC – 8/25/98

7:00pm BM opened meeting

7:02pm **31 Bowers Ave. (M32A, P44, L0) – Request for Determination of Applicability** for the proposed repair of an existing stone wall along Lake Mascuppic.

ES: Motion to waive the reading of the legal notice and the abutters list.

LB: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

ES recused himself from this hearing since he is a direct abutter to the applicants. BM disclosed that his in-laws live on Boers Ave., but are not direct abutters.

Applicants Arthur and Renee' Boyle appeared before the Commission concerning this project. They have owned the home for 25 years and have needed to repair the stone wall every year after the winter months. So far they have lost about 3 ½ feet of land due to the ice drag in the winter and the boat wakes during the warmer months. They propose to re-build by hand 3 ½ feet of the existing wall with rocks and concrete forms. They will not be digging or dredging in the lake. MM felt that this project only required a determination since the wall is existing and will not be expanded beyond its current footprint. There were no abutters present to speak on this project.

JK: Motion to close the public portion of the hearing

PM: 2nd the motion

In Favor: 5 Opposed: 0 Abstain: 1 Absent: 1

Passes: 5-0-1-1

JK: Motion to issue a Negative Determination for the repair of an existing stone wall at 31 Bowers Ave.

PM: 2nd the motion

In Favor: 5 Opposed: 0 Abstain: 1 Absent: 1

Passes: 5-0-1-1

7:15pm **81 Westford Rd. (M21, P4, L0) – Amendment to the Order of Conditions, DEP# 309-0855**
for the proposed construction of a commercial development consisting of 1 free standing building to contain a Honey Dew Donuts, and another building dedicated to a daycare facility.

ES: Motion to waive the reading of the abutters list and legal notice.

PM: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

Engineer Doug Lees appeared before the Commission with a modified layout plan that had been approved by the Planning Board. The layout was modified to accommodate a daycare facility instead of the originally proposed drive-thru bank. This change effects the grading of the stormwater and building locations only; all other stormwater treatment standards remain. Mr. Lees went on to stress that the impervious surface has decreased, and the location of the building has moved farther away from the wetland system. In addition, there will be a reduction in the amount of fill required on the site due to these changes. MM noted that only the parking would be in the buffer zone and there is improved environmental protection with this modification plan. MM added that the snow storage has also been removed from the buffer zone. There were no abutters present to speak on this project.

JK: Motion to close the public portion of the hearing

LB: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

JK: Motion to approve an amendment to the Order of Conditions, DEP# 309-0855 per the plan dated May 2, 2013.

ES: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

7:30pm **72 Tyng Rd., Innovation Academy (M28, P63, L0) – Notice of Intent, DEP# 309-0867** for the construction of a dirt road; the removal of construction debris within the 200' riparian buffer, the 100' wetland buffer, and the wetland resource area; and the restoration of the disturbed area.

ES: Motion to waive the reading of the abutters list and legal notice.

LB: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

Representatives from Innovation Academy and engineer Stevie Cavalho appeared before the Commission regarding this project which is in response to an Enforcement Order issued by the Commission. The work will consist of removing all debris, restoring the wetland with new plantings, and re-establish the existing boulder slope by using the same boulders that will be removed from the wetland area. There were no abutters present to speak about this project.

ES: Motion to close the public portion of the hearing

PM: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

JK: Motion to issue a Standard Order of Conditions for 72 Tyng Rd. per plans dated 5/13/13.

ES: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

7:55pm **79 Parham Rd. (M31, P46, L0) – Request for Certificate of Compliance, DEP# 309-664** for the replacement of a subsurface sewage disposal system. Order of Conditions issued 11/25/02.

MM reported that all of the work was satisfactorily completed and in compliance.

JK: Motion to issue a Certificate of Compliance for DEP# 309-664 at 79 Parham Rd.

LB: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

8:00pm **31 Elm St. (M31B, P23, L0) – Request for Certificate of Compliance, DEP# 309-479** for work done on an existing home. Order of Conditions issued 8/26/1998.

MM reported that all of the work was satisfactorily completed and in compliance.

ES: Motion to issue a Certificate of Compliance for DEP# 309-479 at 31 Elm St.

PM: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

Reports/Discussion:

- **Sherburne Nature Center/Trails Committee Update**

LG reported that the Trails Committee is working on scheduling Richard Wolniewicz to return and finish the meadow trail sometime in June. Also, MM is supposed to contact Jim Corrigan regarding the placement of a new foot bridge at the Shady Glade trails.

Administrative:

1. Minutes:

LB: Motion to approve the minutes as amended for May 14, 2013.

JK: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

2. New Business

Resident Steve Berthiaume appeared before the Commission regarding the bee hives at the Sherburne Nature Center. Mr. Berthiaume is tending the hives for the summer in the absence of Jim Yorke. While tending them last weekend, he had a tense conversation with Alan Sherburne. He notified LG of the incident and was looking for some direction from the Commission. LG reported that she and the Trails Committee will work with Mr. Sherburne on a resolution, as the bee hives have been approved by the Commission and the Trustees.

8:15pm

JK: Motion to adjourn

ES: 2nd the motion

In Favor: 6 Opposed: 0 Absent: 1

Passes: 6-0-1

Respectfully for the Conservation Commission,

Pamela Berman
Administrative Assistant